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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,218	01/23/2004	Douglas Durham	15436.162.1	9129
22913 7590 04/16/2008 WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111				
EXAMINER				
SEYE, ABDOUK				
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2194				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/764,218

**Applicant(s)**

DURHAM ET AL.

**Examiner**

Abdou Karim Seye

**Art Unit**

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 11/23/2004.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-10 and 12-27 are currently pending in this application. However, claim 11 is missing from this original filing. According to rule 1.126 the claims have been renumbered as claims 1-26.

Applicant is required to correct the claims number and their dependency in response to this office action.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 6, 12 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following claims language is unclear and indefinite:

The term "substantially" in claims 6, 12 and 18 lines 4 and 5 is a relative term which renders the claim indefinite. The term "substantially " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21-27 are rejected under 35 USC 101 because claim 22 recites "readable medium carrying" which is directed to non-statutory subject matter.

The claims are directed to a signal directly or indirectly by claiming a readable medium carrying and the Specification recites evidence where the computer readable medium is defined as a "**wave**" (such as a carrier wave, see specification page 27, paragraph 78 and 80). In that event, the claims are directed to a form of energy, which at present the office feels does not fall into a category of invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

6. Claims 1-2, 4, 8-9, 11, 14-15, 17, 20-21, 23 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Blackwell et al (U.S. 7003781).

7. As to claims 1, 9, 15 and 21, Blackwell teaches the invention as claimed including a product and method for processing data events captured in a multi-protocol communications system, the product and method comprising:

accessing captured data events, each of the captured data events having an associated clock timestamp (abstract, lines 9-11; FIG.16-17, entry/exit time stamp; col. 15, lines 59-67);

sorting at least some of the captured data events according to the respective clock timestamps associated with each of the captured data events (FIG. 16, col. 16, lines 29-39); and

displaying at least some of the sorted data events by way of a graphical user interface (FIG. 14: 19D, col. 16, lines 3-10).

8. As to claim 2, Blackwell teaches, wherein the displayed data events represent at least two different communication protocols (FIG.13; col. 14, lines 40-45; "internet" and "a global communication network" ; these claimed elements meet the claimed limitation of the claim).

9. As to claims 4, 11, 17 and 23, Tanaka teaches, wherein the clock timestamp is based upon one of: a reference clock; and, a protocol clock (FIG. 17).

10. As to claim 5, Blackwell teaches, wherein the displayed data events are presented on the graphical user interface such that a temporal relationship between at least two of the displayed data events is apparent from the display (FIG. 3: 322, col. 7, lines 4-17; event a relationship type based on event message data time).

11. As to claims 8, 14, 20 and 26 Blackwell teaches, further comprising displaying information concerning at least some of the displayed data events, wherein the displayed information includes at least one of: a data event start time; a data event stop time; a data event delta time; a data event type; an analyzer port in connection with which a data event was captured; a timestamp value; and, a protocol type (FIG. 16-17; "event detail time value"). This claimed element meets the claimed limitation of the claim.

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12. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3, 10, 16 and 22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Blackwell et al (U.S 7003781) in view of Chen et al (US 20070226547).

14. As to claims 3, 10, 16 and 22 Blackwell teaches the invention substantially as claimed including a method for processing data events captured in a multi-protocol communications system as in claims 1, 9, 16 and 22 above.

However, Blackwell does not explicitly teach, selecting communication protocols from the group consisting of: Infiniband; Gigabit Ethernet; SONET; Fibre Channel; and, PCI Express.

Whereas, in the same field of endeavor Chen discloses a storage server coupled with a Gigabit Ethernet and Fibre Channel (FIG. 3; paragraph 5 and 52), where a LAN, well known in the art to use Ethernet, and the server connects to the storage device through a fiber channel).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to modify Blackwell's invention with Chen's invention to include more than one protocol to communicate on a network. One would be motivated combine these two references in order provide a standard data communication protocols over existing infrastructure, and to provide flexible management of storage (Chen's; paragraph 15).

15. Claims 6-7, 12-13, 18-19 and 24-25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Blackwell et al (U.S 7003781), in view of Grace (5748098).

As to claims 6 and 7, Blackwell teaches, a temporal relationship between at least two of the displayed data events is apparent from the display as in claim 5 above.

However, Blackwell does not explicitly teach, wherein the temporal relationship comprises one of the following a first data event preceded, followed and overlapped a second data event ; and a first data event and a second data event commenced substantially simultaneously and concluded substantially simultaneously ; and determining a causal relationship exists between the at least two sorted data events.

Whereas, in the same field of endeavor Grace discloses a management system of data events reported, where the data events are compared with historical data ;and wherein a determination of the events occurring simultaneously is made (abstract; and; col. 2, lines 17-20; col. 5, lines 15-36); and wherein a determination of a causal relationship is made (col. 4, lines 13-23).



It would be obvious to a person of ordinary skill in the art at the time the invention was made to modify Blackwell's invention with Grace's invention to include a data events management system for managing the occurrence of the events; determining simultaneous data events and causal relationship between data event. One would be motivated provide such management method and system for automatically processing alarm signals in a network management system (Grace's; col. 2, lines 50-55).

15. As to claims 12-13, 18-19 and 24-25, they are rejected for the same reasons as claims 6 and 7 above.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Grabamik et al (US 20030074440) discloses a system and method for validation, completion and construction of event relationship networks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, An Meng at (571) 272-3756. The fax phone number for

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formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS

March 03, 2008

/Meng-Ai An/

Supervisory Patent Examiner, Art Unit 2195